IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Group Art Unit: 1793
Examiner: McGuthey Banks

Application of	: Engl et al.
Serial No.	: 10/539,099
Filing Date	: January 30, 2006
Entitled	: METHOD FOR PRODUCING A STEEL PRODUCT

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

Appellant submits this Brief on Appeal in connection with the above-identified patent application. Appellant filed a Notice of Appeal on June 4, 2008. Appellant submits herewith a Petition for a Five Month Extension of Time. As a result, the due date for filing the Brief on Appeal is Monday, January 5, 2009. The Commissioner is hereby authorized to charge Deposit Account No. 50-3081 the $540.00 Appeal Brief Fee, the $2,350.00 Five Month Extension of Time Fee, and any other fee due in connection with this Brief on Appeal.

I. REAL PARTY IN INTEREST

The real party in interest in the above application is the Assignee, THYSSENKRUPP STEEL AG, a corporation organized and existing under the laws of Germany, and having an office and place of business located at KAISER-WILHELM-SRT. 100, DUISBURG, GERMANY 47166.

II. RELATED APPEALS AND INTERFERENCES

There are no other prior or pending appeals, interferences or judicial proceedings known to the Appellant, the Appellant's legal representative, or the assignee which may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-19 were presented for examination.

Claims 18 and 19 were cancelled.

Claim 17 was withdrawn from consideration.

Claims 1-16 stand rejected.

Claims 1-16 are on appeal.

IV. STATUS OF AMENDMENTS

Appellant has not filed an Amendment Under 37 C.F.R. §1.116.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 1, the only independent claim on appeal, claims a method for producing a steel product, in particular a steel sheet or steel strip, with a high yield strength. (See, for example, p. 1 at ¶¶ 1 and 7, p. 2 fourth full ¶, and p. 6 first full ¶ of the originally-filed English language specification.) The steel strip or sheet is produced from steel which contains (in % by weight):

C:	≤ 1.00%
Mn:	7.00 to 30.00 %
Al:	1.00 to 10.00 %
Si:	> 2.50 to 8.00 %
Al+Si:	> 3.50 to 12.00 %
B:	< 0.01 %
Ni:	< 8.00 %
Cu:	< 3.00 %
N:	< 0.60 %
Nb:	< 0.30 %
Ti:	< 0.30 %
V:	< 0.30 %
P:	< 0.01 %

and iron and unavoidable impurities as the remainder. (See, for example, p. 1 at ¶ 7 to p. 2 at ¶ 1 of the originally-filed English language specification. The "≤" and "<" inequalities are supported by International Application No. PCT/EP2003/010365 and priority document DE 102 59 230.6, and are reflected in the Substitute Specification filed January 30, 2006.) The strip or sheet is cold rolled to form a cold rolled strip. (See, for example, p. 2 second full ¶, p. 3 at ¶¶ 2 and 6, and p. 5 second full ¶ of the originally-filed English language specification.) The finished steel product is subsequently produced by cold forming that takes place at a degree of cold forming of 2.5 to 25 %. (See, for example, p. 2 at ¶ 1, p. 3 at ¶ 2, and Table **1** of the originally-filed English language specification.)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection on appeal are:

(1) the rejection of claims 1-16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Pub. No. US 2004/0112104 by Hoffmann et al. ("Hoffmann") in view of U.S. Patent No. 4,861,390 to Satoh ("Satoh"); and

(2) the final rejection of claims 1-16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,358,338 to Guelton et al. ("Guelton") in view of Satoh alone or further in view of U.S. Patent No. H326 to Brager et al. ("Brager") or Japanese Patent Document 58-144418 (JP '418).[1]

[1] Based on the English language Abstract of JP '418.

VII. ARGUMENT

A. The Rejection of Claims 1-16 under 35 U.S.C. 103(a) over Hoffmann and Satoh

The Examiner rejected claims 1-16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Pub. No. US 2004/0112104 by Hoffmann et al. ("Hoffman") in view of U.S. Patent No. 4,861,390 to Satoh ("Satoh") for the first time in the Final Office Action mailed January 4, 2008.

The Examiner alleged that Hoffmann teaches every element of claim 1, including composition and strength, except the claimed degree of cold forming. The Examiner also specifically acknowledged that Hoffmann does not disclose a degree of cold forming 2.5 to 25 %. See pages 2 and 3 of the Final Office Action mailed January 4, 2008.

The Examiner alleged that Satoh teaches a method for manufacturing steel sheets that includes "skin-pass rolling of not more than 10%" at column 12, lines 30-39. The Examiner also specifically acknowledged that Satoh teaches methods that do not include cold forming. Nevertheless, the Examiner alleged that:

> It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the steel in Hoffman et al with a cold forming process of less than 10% as taught by Satoh et al, since both Satoh et al (in column 1, line 14) and Hoffman et al (Claim 18) both teach producing steel strips from rolled processes using cold forming techniques for use as automobile components.

See page 3 of the Final Office Action mailed January 4, 2008.

1. The Rejection of Claims 1-16 over Hoffmann and Satoh should be withdrawn because Hoffmann is not prior art

Appellant submits that the rejection under 35 U.S.C. § 103(a) is improper because Hoffmann is not available as prior art against the instant application under 35 U.S.C. §§ 102(a) or 102(b).

Hoffmann is not available as prior art under 35 U.S.C. § 102(a) because Hoffmann was not published before Appellant's priority date. Appellant claims priority to German patent applications DE 102 59 230.6, which was filed on December 17, 2002. Hoffmann published on August 7, 2003. Note that Hoffmann is a U.S. national phase of International Application No. PCT/EP02/06480, which published on December 19, 2002 and claims priority to German Patent Application No. 101 28 544.2, which published June 5, 2003. See Exhibits **A** and **B**. Accordingly, Hoffmann's earliest publication date is December 19, 2002. Therefore, Hoffmann not available as prior art under 35 U.S.C. §102(a) because Appellant's priority date (December 17, 2002) pre-dates Hoffman's earliest publication date (December 19, 2002).

Hoffmann is also not available as prior art under 35 U.S.C. § 102(b) because Hoffmann was not published more than one year prior to the date of the application in the U.S.[2] Appellant's U.S. application date is September 18, 2003, which is the international filing date PCT Application No. PCT/EP03/10365. (See 35 U.S.C. § 363 and PCT Article 11, which provide that the date of the application in the U.S. of a national phase

[2] Hoffmann shares four inventors (Hoffmann, Engl, Menne, and Heller) and an assignee (ThyssenKrupp Steel AG) with the instant application.

of a PCT application is the international filing date of the PCT application.) Hoffmann first published on December 19, 2002. Therefore, Hoffmann is not available as prior art under 35 U.S.C. §102(b) because Hoffman's earliest publication date (December 19, 2002) is not more than one year prior to Appellant's U.S. application date (September 18, 2003).

2. The Rejection of Claims 1-16 over Hoffmann and Satoh should be withdrawn because Hoffmann and Satoh do not teach or suggest every limitation of claim 1

Hoffmann is not prior art to Appellant's application. However, even if Hoffmann were prior art to Appellant's application, the combination of Hoffmann and Satoh would still not make Appellant's claim 1 obvious because Hoffmann and Satoh do not teach or suggest every limitation of claim 1. In particular, Hoffmann and Satoh do not teach or suggest a degree of cold forming of 2.5 to 25 %. Appellant notes that the degree of cold forming of 2.5 to 25 % is claimed as part of an additional cold forming step, which produces a finished steel product from a cold rolled strip after the cold rolling step produces the cold rolled strip.

Neither Hoffmann nor Satoh teach or suggest the claimed degree of cold forming of 2.5 to 25 %

Appellant agrees with the Examiner that Hoffmann does not teach or suggest a degree of cold forming of 2.5 to 25 %. Hoffmann discloses a steel strip or sheet steel having good cold formability and high-strength. See Abstract.

Appellant also agrees with the Examiner that Satoh does not teach or suggest a degree of cold forming of 2.5 to 25 %. Satoh discloses a method of "rolling ... steel to a given thickness without cold rolling." See Abstract. The method expressly excludes a "subsequent cold rolling step." See Claims 1 and 6. In fact, Satoh explains that the "great drawback" of customary cold forming is the high energy, labor, and time cost, together with the "unavoidable troubles such as occurrence of surface defects at the cold rolling step." See column 2, line 67 to column 3, line 10. Furthermore, Satoh explains the "large" merits of providing a final product only through hot forming. See column 3, lines 11-15 and column 4, lines 60-64. Satoh also explains the conceptual and empirical reasons why cold forming is incompatible with the disclosed method: cold temperatures cause troubles by considerably increasing the deformation resistance and higher temperatures are required to obtain the desired balance between tensile strength and elongation. See column 11, lines 8-43.

The Examiner cited Satoh's disclosure of "skin-pass rolling of not more than 10%" at column 12, lines 29-39 as allegedly being related or applicable to cold rolling. First, Appellant notes that skin-pass rolling is not the same as cold forming because skin-pass is a process for correction of defects and surface properties whereas the claimed cold forming is a process for producing (e.g., shaping) a finished steel product. Second, Appellant notes that Satoh discloses the skin-pass rolling in connection with picking (e.g., correction of defects and surface properties) and "for the correction of shape and the adjustment of surface roughness." Satoh does not disclose skin-pass rolling in

connection with any type of forming or cold forming. Accordingly, Appellant respectfully submit that Satoh fails to teach or suggest a degree of cold forming of 2.5 to 25% because 1) Satoh merely discloses skin-pass rolling of not more than 10% and not cold forming and because 2) Satoh discloses methods that expressly avoid cold forming.

The combination of Hoffmann and Satoh also does not teach or suggest the claimed degree of cold forming of 2.5 to 25 %

The Examiner's assertion that "[i]t would have been obvious ... to form the steel in Hoffman et al with a cold forming process of less than 10% as taught by Satoh et al" is incorrect. As discussed in the two preceding paragraphs, Satoh does not teach or suggest any method using cold forming. Although Satoh discloses "skin-pass rolling of not more than 10%," the skin pass rolling is disclosed in for "correction of shape and the adjustment of surface roughness" in manufactured steel sheets, not in cold forming. See column 12, lines 29-39. Therefore, it is incorrect to assert that Satoh's "less than 10%" relates to or is applicable to cold forming.

The Examiner's assertion that "both Satoh et al (in column 1, line 14) and Hoffman et al (Claim 18) both teach producing steel strips from rolled processes using cold forming techniques for use as automobile components" is also incorrect. Although the cited passages disclose steel for automotive vehicle body components, Satoh does not teach or suggest methods using cold forming. In fact, Satoh's method expressly avoids cold rolling in forming steel strips and expressly excludes any subsequent cold rolling step. See Claims 1 and 6.

Rather, one of ordinary skill in the art at the time of the invention using the Examiner's combination of Hoffmann's steel composition and strength with Satoh's manufacturing techniques would produce a method for manufacturing a steel product that avoids cold rolling in forming steel strips and excludes any "subsequent cold rolling step." Appellant respectfully submits that it is improper to use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, it is improper for the Examiner to ignore every one of Satoh's teachings to avoid cold rolling and subsequent cold forming and to combine Hoffman's "cold formability" with Satoh's "skin-pass rolling of not more than 10%" in an attempt to trivialize Appellant's claim 1.

The disclosures of Hoffmann and Satoh teach away from their combination

It is axiomatic that a reference must be read in its entirety and that it is impermissible within the framework of 35 U.S.C. § 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full of appreciation of what such reference fairly suggests to one skilled in the art. See *Bausch & Lomb, Inc., v. Barnes-Hind/Hydrocurve, Inc.*, 796, F.2d 443, 448 (Fed. Cir. 1986) (quoting *In re Wesslau*, 355 F. 2d 238, 241 (CCPA 1965).

As discussed above, Satoh disparages the "energy, labor, and time costs," as well as the "unavoidable troubles [and] defects" caused by cold forming. Further, Satoh specifically teaches away from cold forming by providing alternative methods that

expressly excludes cold rolling and cold forming steps. Furthermore, Satoh explains the conceptual and empirical reasons why cold forming is incompatible with his method. For each of these reasons, one of ordinary skill in the art at the time of the invention would have understood that Satoh teaches away from using cold forming.

Hoffmann discloses a steel strip or sheet steel having good cold formability. Therefore, one of ordinary skill in the art would not combine Hoffmann with Satoh as suggested by the examiner because there would be no benefit to combining Hoffman's steel having good cold formability with Satoh's manufacturing method that expressly excludes cold forming.

3. Summary

Accordingly, for each of the proceeding reasons, Appellant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Hoffman in view of Satoh be reversed. Because claims 2-16 depend from 1 and contain all of the limitations recited therein, Appellant respectfully requests that the rejection of claims 2-16 under 35 U.S.C. § 103(a) as being unpatentable over Hoffman in view of Satoh also be reversed.

B. The Rejection of Claims 1-16 under 35 U.S.C. 103(a) over Guelton, Satoh, Brager, and JP '418

The Examiner rejected claims 1-16 under 35 U.S.C. §103(a) as being unpatentable over Guelton in view of Satoh alone or further in view of Brager or JP '418 for the first time in the Final Office Action mailed January 4, 2008.

The Examiner alleged that Guelton teaches every element of claim 1, including composition, except the claimed degree of cold forming. The Examiner also specifically acknowledged that Guelton does not disclose a degree of cold forming 2.5 to 25 %. See pages 3 and 4 of the Final Office Action mailed January 4, 2008.

The Examiner alleged that Satoh teaches "skin-pass rolling of not more than 10%." The Examiner also specifically acknowledged that Satoh teaches methods that do not include cold rolling. Nevertheless, the Examiner alleged that:

> It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the steel in Guelton with a cold forming process of less than 10% as taught by Satoh et al, since both Satoh et al (in column 1, line 14) and Guelton et al (column 1, lines 22 and 23) both teach producing steel strips from rolled processes using cold forming techniques for use as automobile components.

See page 4 of the Final Office Action mailed January 4, 2008.

The Examiner did not apply Brager or JP '418 to the rejection of claim 1.

1. The Rejection of Claims 1-16 over Guelton, Satoh, Brager, and JP '418 should be withdrawn because Hoffmann and Satoh do not teach or suggest every limitation of claim 1

The cited art does not teach or suggest a degree of cold forming of 2.5 to 25 %. Appellant notes that the degree of cold forming of 2.5 to 25 % is claimed as part of an additional cold forming step, which produces a finished steel product from a cold rolled strip after the cold rolling step produces the cold rolled strip.

Neither Guelton nor Satoh teach or suggest the claimed degree of cold forming of 2.5 to 25 %

Appellant agrees with the Examiner that Guelton does not teach or suggest a degree of cold forming of 2.5 to 25 %. Guelton discloses a method for producing an iron-carbon-manganese alloy cast directly in the form the strip. See column 3, lines 31-39. Importantly, the "invention relies firstly on the use of a process for casting liquid metal directly in the form of a thin strip" to obtain the desired final properties. See column 2, lines 4-15.

Appellant also agrees with the Examiner that Satoh does not teach or suggest a degree of cold forming of 2.5 to 25 %. Satoh discloses a method of "rolling ... steel to a given thickness without cold rolling." See Abstract. The methods expressly exclude a "subsequent cold rolling step." See Claims 1 and 6. In fact, Satoh explains that the "great drawback" of customary cold forming is the high energy, labor, and time cost, together with the "unavoidable troubles such as occurrence of surface defects at the cold rolling step." See column 2, line 67 to column 3, line 10. Furthermore, Satoh explains the "large" merits of providing a final product only through hot forming, and omitting any cold forming. See column 3, lines 11-15 and column 4, lines 60-64. Satoh also explains the conceptual and empirical reasons why cold forming is incompatible with the disclosed method: cold temperatures cause troubles by considerably increasing the deformation resistance, and higher temperatures are required to obtain the desired balance between tensile strength and elongation. See column 11, lines 8-43.

The Examiner cited Satoh's disclosure of "skin-pass rolling of not more than 10%" at column 12, lines 29-39 as allegedly being related or applicable to cold rolling. First, Appellant notes that skin-pass rolling is not the same as cold forming because skin-pass is a process for correction of defects and surface properties whereas the claimed cold forming is a process for producing (e.g., shaping) a finished steel product. Second, Appellant notes that Satoh discloses the skin-pass rolling in connection with picking (e.g., correction of defects and surface properties) and "for the correction of shape and the adjustment of surface roughness." Satoh does not disclose skin-pass rolling in connection with any type of forming or cold forming. Accordingly, Appellant respectfully submit that Satoh fails to teach or suggest a degree of cold forming of 2.5 to 25% because 1) Satoh merely discloses skin-pass rolling of not more than 10% and not cold forming and because 2) Satoh discloses methods that expressly avoid cold forming.

The combination of Guelton and Satoh also does not teach or suggest the claimed degree of cold forming of 2.5 to 25 %

The Examiner's assertion that "[i]t would have been obvious … to form the steel in Guelton et al with a cold forming process of less than 10% as taught by Satoh et al" is incorrect. As discussed in the two preceding paragraphs, Satoh does not teach or suggest any method using cold forming. Although Satoh discloses "skin-pass rolling of not more than 10%," the skin pass rolling is disclosed in for "correction of shape and the adjustment of surface roughness" in manufactured steel sheets, not in cold forming. See

column 12, lines 29-39. Therefore, it is incorrect to assert that Satoh's "less than 10%" relates to or is applicable to cold forming.

The Examiner's assertion that "both Satoh et al (in column 1, line 14) and Guelton et al (column 1, lines 22 and 23) both teach producing steel strips from rolled processes using cold forming techniques for use as automobile components" is also incorrect. Although the cited passages disclose steel for automotive vehicle body components, Satoh does not teach or suggest methods using cold forming. In fact, Satoh's method expressly avoids cold rolling in forming steel strips and expressly excludes any subsequent cold rolling steps. See Claims 1 and 6. Similarly, Guelton at column 1, lines 22 and 23 discloses drawing and stamping, not cold forming.

Accordingly, the Examiner failed to specify any teaching or suggestion in Guelton or Satoh of cold forming of a cold rolled strip to produce the finished steel product.

One of ordinary skill in the art at the time of the invention would have recognized that Guelton and Satoh, either alone or in combination, do not teach or suggest any degree of cold forming (e.g., of a cold rolled strip to produce the finished steel product). Guelton's teachings are expressly contrary to cold forming of a cold rolled strip because Guelton teaches that the steel product is cast directly from liquid metal. Satoh's teachings are expressly contrary to cold forming of a cold rolled strip because Satoh teaches methods that specifically avoid cold rolling and subsequent cold forming.

Brager and JP '418 do not cure the deficiencies of Guelton and Satoh because they also do not teach or suggest the claimed degree of cold forming of 2.5 to 25 %

The Examiner did not apply Brager or JP '418 to the rejection of claim 1 or to the claimed degree of cold forming of 2.5 to 25 %. See page 5 of the Final Office Action mailed January 4, 2008. Nevertheless, Appellant notes that Brager and JP '418 do not cure the deficiencies of Guelton and Satoh because they also do not teach or suggest the claimed degree of cold forming of 2.5 to 25 %.

Brager discloses various alloy compositions as percentages by weight for C, Mn, Ni, Si, Al, Cr, P, S, Te, V, Ti, B, W, N, and Fe. See Table **I**. Brager also discloses cold rolling for reduction in thickness of about 40 to about 60 %. See column 7, lines 2-8. However, Brager does not teach or suggest the claimed degree of cold forming of 2.5 to 25 % and does not provide any motivation to modify any of the cited art disclosures to produce every element of Appellant's claim 1.

JP '418 discloses the manufacture of high manganese steel for non-magnetic use by continuously casting, slow cooling, and hot rolling. See Abstract. However, JP '418 does not teach or suggest the claimed degree of cold forming of 2.5 to 25 % and does not provide any motivation to modify any of the cited art disclosures to produce every element of Appellant's claim 1.

2. Conclusion

Accordingly, for each of the proceeding reasons, Appellant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Guelton in view of Satoh alone or further in view of Brager or JP '418 be reversed. Because claims 2-16 depend from 1 and contain all of the limitations recited therein, Appellant

respectfully requests that the rejection of claims 2-16 under 35 U.S.C. § 103(a) as being unpatentable over Guelton in view of Satoh alone or further in view of Brager or JP '418 also be reversed.

VIII. CLAIMS APPENDIX

The following listing presents the claims as currently appealed:

Clam 1. (Rejected) Method for producing a steel product, in particular a steel sheet or steel strip, with a high yield strength,

wherein a steel strip or sheet is produced from steel which contains (in % by weight):

C:	≤ 1.00 %
Mn:	7.00 to 30.00 %
Al:	1.00 to 10.00 %
Si:	> 2.50 to 8.00 %
Al+Si:	> 3.50 to 12.00 %
B:	< 0.01 %
Ni:	< 8.00 %
Cu:	< 3.00 %
N:	< 0.60 %
Nb:	< 0.30 %
Ti:	< 0.30 %
V:	< 0.30 %
P:	< 0.01 %

and iron and unavoidable impurities as the remainder,

which strip or sheet is cold rolled to form a cold rolled strip,
from which the finished steel product is subsequently produced by cold forming that takes place at a degree of cold forming of 2.5 to 25 %.

Claim 2. (Rejected) Method according to claim 1, characterized in that the degree of cold forming is 15% maximum.

Claim 3. (Rejected) Method according to claim 2, characterized in that the degree of cold forming is 10% maximum.

Claim 4. (Rejected) Method according to claim 1, characterized in that production of the steel strip or sheet comprises the following working steps:
casting the steel to form an ingoing material, such as slabs, thin slabs or a cast strip,
hot rolling the ingoing material to form a hot strip,
winding the hot strip,
cold rolling the hot strip to form the cold strip.

Claim 5. (Rejected) Method according claim 4, characterized in that the ingoing material is reheated to at least 1100°C before hot rolling.

Claim 6. (Rejected) Method according to claim 4, characterized in that the ingoing material is used directly for hot rolling at a temperature of at least 1100°C.

Claim 7. (Rejected) Method according to claim 4, characterized in that the end temperature of the hot rolling is at least 800°C.

Claim 8. (Rejected) Method according to claim 4, characterized in that the winding temperature is 450°C to 700°C.

Claim 9. (Rejected) Method according to claim 4, characterized in that, after cold rolling, the cold strip is recrystallization annealed, and in that, after recrystallization annealing, the cold strip is finish cold formed.

Claim 10. (Rejected) Method according to claim 9, characterized in that recrystallization annealing is carried out at an annealing temperature of 600°C to 1100°C.

Claim 11. (Rejected) Method according to claim 10, characterized in that annealing is carried out as bell-type annealing at a annealing temperature of 600°C to 750°C.

Claim 12. (Rejected) Method according to claim 10, characterized in that annealing is carried out at an annealing temperature of 750°C to 1100°C.

Claim 13. (Rejected) Method according to claim 12, characterized in that cold rolling is carried out at a degree of cold rolling of 30% to 75%.

Claim 14. (Rejected) Method according to claim 1, characterized in that the steel contains more that 2.70% by weight silicon.

Claim 15. (Rejected) Method according to claim 11, characterized in that the steel contains 0.002% by weight to 0.01% by weight boron.

Claim 16. (Rejected) Method according to claim 15, characterized in that the steel contains 0.003 to 0.008% by weight boron.

Claim 17. (Withdrawn) Steel sheet according to claim 1, characterized in that the steel contains 0.01 to 1.00% by weight carbon.

Claim 18. (Cancelled)

Claim 19. (Cancelled)

IX. EVIDENCE APPENDIX

Exhibit A attached hereto is a true copy of International Application No. PCT/EP02/06480, which published on December 19, 2002.

Exhibit B attached hereto is a true copy of German Patent Application No. 101 28 544.2, which published June 5, 2003.

X. RELATED PROCEEDINGS APPENDIX

None.

XI. CONCLUSION

For the reasons stated above, it is requested that the Examiner's rejection of all pending claims under 35 U.S.C. § 103(a) be reversed.

Respectfully submitted,

Date: January 5, 2009

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